

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

KENNETH COZART,

Plaintiff,

v.

CIVIL ACTION NO. 5:18-cv-00397

BLUESTONE INDUSTRIES, INC.,

Defendant.

FIRST AMENDED SCHEDULING ORDER

The Court has reviewed the *Plaintiff's Supplemental Motion to Amend the Court's Scheduling Order* filed in the above-styled matter. For reasons appearing to the Court, it is **ORDERED** that the motion (Document 55) is **GRANTED** and that the *Scheduling Order* (Document 20) previously entered on July 12, 2018, is **AMENDED** as follows:

1. **Discovery**: All discovery shall be completed by **April 26, 2019**.
2. **Settlement Meeting**: The parties and their lead trial counsel shall meet and conduct negotiations looking toward the settlement of the action, and counsel shall be prepared at the Pretrial Conference to certify that they have done so. Counsel for the Plaintiff shall take the initiative in scheduling the settlement meeting, and all other counsel shall cooperate to effect such negotiations. The Settlement Meeting may be held as early as desired, but must be held **at least forty-five (45) days prior** to the Pretrial Conference.

3. **Mediation:** Mediation is mandatory, and is ordered pursuant to, and shall be held in compliance with, the provisions of L.R. Civ. P. 16.6. The parties shall select the mediator in compliance with L.R. Civ. P. 16.6.2. Counsel for the Plaintiff shall take the initiative in scheduling the mediation, and all other counsel shall cooperate to effect the same. The mediation scheduled by the parties must be concluded **at least thirty (30) days prior** to the Pretrial Conference.

4. **Rule 26(a)(3) Disclosures:** If the case is not settled at the Settlement Meeting, at Mediation, or otherwise, and if there is no order or stipulation to the contrary, counsel and unrepresented parties shall make all Rule 26(a)(3) disclosures **at least thirty (30) days prior** to the Pretrial Conference.

5. **Motions in Limine:** All motions in limine shall be filed and served by **June 21, 2019**, with responses due by **June 28, 2019**. Replies shall not be filed, and will not be considered, without leave of the Court. **(PLEASE NOTE THAT ANY MOTION, RESPONSE OR OTHER DOCUMENTS FILED AFTER THE DEADLINE FOR FILING, WITHOUT LEAVE OF COURT, WILL NOT BE CONSIDERED.)**

6. **Proposed Charges to the Jury:** The original and one copy of proposed jury instructions and verdict form shall be exchanged by counsel, filed with the Clerk of the Court, and e-mailed to the presiding District Judge by **July 29, 2019**, according to instructions provided by the Court's law clerk. The proposed jury instructions and verdict form provided to chambers shall be in Word compatible format. The instructions should be case specific only. **No procedural or general instructions should be submitted.**

7. **Proposed Integrated Pretrial Order:** The Plaintiff's portion of the proposed integrated pretrial order shall be submitted to opposing counsel by **July 24, 2019**, who shall then prepare and complete the opposing portion thereof and submit the proposed integrated pretrial order, signed by all counsel, to the Court for entry no later than **July 31, 2019**. The proposed integrated pretrial order, signed by all counsel and unrepresented parties, shall set forth the matters listed in L. R. Civ. P. 16.7(b).

8. **Pretrial Conference/Final Settlement Conference:** A combined Pretrial Conference/Final Settlement Conference, attended by all unrepresented parties and by lead trial counsel for each represented party, shall be held on **August 7, 2019, at 9:00 a.m.** Lead trial counsel shall be fully prepared to discuss all aspects of the case, and individuals with full authority to settle the case for each party shall be present in person.

9. **Jury Trial:** Trial of this action shall be held on **August 19, 2019, at 9:00 a.m.**, before the undersigned. Counsel should be prepared to select a jury **on the preceding Friday** if so ordered by the Court.

10. **Stipulations:** All stipulations regarding extensions of time to file pleadings and any other stipulations which might affect deadlines contained in this order are subject to Court approval.

11. **Failure to Appear or Negotiate:** Should lead trial counsel fail to appear at any pre-trial conference or otherwise fail to meet and confer in good faith with opposing counsel as required in the "Settlement Meeting" paragraph above, or should a party or his authorized representative fail to appear or be available at any conference or otherwise fail to meet and confer in good faith as required in the "Settlement Meeting" paragraph above, appropriate sanctions may

be imposed, including, but not limited to, sanctions by way of imposition of attorney fees against the attorney and/or his client pursuant to Fed. R. Civ. P. 16(f).

All proceedings shall be held by the Court at the Robert C. Byrd United States Courthouse and Federal Building, 110 North Heber Street, Beckley, West Virginia.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: February 28, 2019



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA